

(1) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

(2) The subsidy standards must be consistent with space requirements under the housing quality standards (See § 982.401(d)).

(3) The subsidy standards must be applied consistently for all families of like size and composition.

(4) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.

(5) A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

(6) Any live-in aide (approved by the HA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;

(7) Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the HA subsidy standards.

(8) In determining family unit size for a particular family, the HA may grant an exception to its established subsidy standards if the HA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. (For a single person other than a disabled or elderly person or remaining family member, such HA exception may not override the limitation in paragraph (b)(7) of this section.)

(c) *Effect of family unit size—maximum subsidy.* The family unit size, as determined for a family under the HA subsidy standards, is used to determine the maximum rent subsidy for the family:

(1) *Certificate program.* HUD establishes fair market rents by number of bedrooms. The sum of the initial contract rent plus any utility allowance may not exceed either:

(i) The FMR/exception rent limit for the family unit size; or

(ii) The FMR/exception rent limit for the unit rented by the family.

(2) *Voucher program.* The HA establishes payment standards by number of bedrooms. The payment standard for the family must be the lower of:

(i) The payment standard for the family unit size; or

(ii) The payment standard for the unit rented by the family.

(d) *Size of unit occupied by family.* (1) The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable HQS space requirements.

(2) The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size.

§ 982.403 Terminating HAP contract: When unit is too big or too small.

(a) *Violation of HQS space standards.* (1) Paragraph (a) of this section applies to the tenant-based certificate program and voucher program.

(2) If the HA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HA must issue the family a new certificate or voucher, and the family and HA must try to find an acceptable unit as soon as possible.

(3) If an acceptable unit is available for rental by the family, the HA must terminate the HAP contract in accordance with its terms.

(b) *Certificate program only—Subsidy too big for family size.* (1) Paragraph (b) of this section applies to the tenant-based certificate program.

(2) The HA must issue the family a new certificate, and the family and HA must try to find an acceptable unit as soon as possible if:

(i) The family is residing in a dwelling unit with a larger number of bedrooms than appropriate for the family unit size under the HA subsidy standards; and

(ii) The gross rent for the unit (sum of the contract rent plus any utility allowance for the unit size leased) exceeds the FMR/exception rent limit for the family unit size under the HA subsidy standards.

(3) The HA must notify the family that exceptions to the subsidy standards may be granted, and the circumstances in which the grant of an exception will be considered by the HA.

(4) If an acceptable unit is available for rental by the family within the FMR/exception rent limit, the HA must terminate the HAP contract in accordance with its terms.

(c) *Termination.* When the HA terminates the HAP contract (under paragraphs (a) or (b) of this section):

(1) The HA must notify the family and the owner of the termination; and

(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HA gives such notice to the owner.

(3) The family may move to a new unit in accordance with § 982.314.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

§ 982.404 Maintenance: Owner and family responsibility; HA remedies.

(a) *Owner obligation.* (1) The owner must maintain the unit in accordance with HQS.

(2) If the owner fails to maintain the dwelling unit in accordance with HQS, the HA must take prompt and vigorous action to enforce the owner obligations. HA remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.

(3) The HA must not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the HA and the HA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any HA-approved extension).

(4) The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in § 982.404(b) and § 982.551(c)). (However, the HA may terminate assistance to a family be-

cause of HQS breach caused by the family.)

(b) *Family obligation.* (1) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any HA-approved extension).

(3) If the family has caused a breach of the HQS, the HA must take prompt and vigorous action to enforce the family obligations. The HA may terminate assistance for the family in accordance with § 982.552.

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§ 982.405 HA periodic unit inspection.

(a) The HA must inspect the unit leased to a family at least annually, and at other times as needed, to determine if the unit meets HQS.

(b) The HA must conduct supervisory quality control HQS inspections.

(c) In scheduling inspections, the HA must consider complaints and any other information brought to the attention of the HA.

(d) The HA must notify the owner of defects shown by the inspection.

(e) The HA may not charge the family or owner for initial inspection or re-inspection of the unit.

§ 982.406 Enforcement of HQS.

Part 982 does not create any right of the family, or any party other than HUD or the HA, to require enforcement of the HQS requirements by HUD or the HA, or to assert any claim against